

State of California



Fair Political Practices Commission

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February 14, 1985

Herbert M. Rosenthal
General Counsel
The State Bar of California
555 Franklin Street
San Francisco, CA 94102-4498


Re: A-85-032

Dear Mr. Rosenthal:

Commissioner Stanford has referred your letter of February 7, 1985, to me. You are correct that, since the State Bar is now a "state agency" within the meaning of the Political Reform Act, employees of the State Bar are no longer covered by Chapter 6 of the Act. Government Code Section 86300(a). Since the status of the State Bar's lobbyists has been changed from that of "independent contractor" to that of "employee," neither the State Bar nor its lobbyists have any registration or reporting obligations under the Act, and the State Bar lobbyists are not subject to the prohibitions the Act places on lobbyists.

I hope this answers your questions.

Very truly yours,


Barbara A. Milman
General Counsel

BAM:nwm

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7 February 1985

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Mr. Dan Stanford
Chairman
FAIR POLITICAL PRACTICES COMMISSION
1100 -K- Street
Sacramento, California 95814

Dear Mr. Stanford:

It is my opinion, as General Counsel of the State Bar of California, that in light of the 1984 amendment of the Political Reform Act which includes courts and judicial branch agencies within the definition of "state agency" and recent changes in the employment status of the State Bar's legislative representatives, the lobbyist provisions of Chapter 6, Articles 1 and 2 of the Act will no longer be applicable to the State Bar when the amendment becomes operative July 1, 1985.

Effective January 1, 1985 the employment status of the State Bar's lobbyists was changed from "independent contractor" status to that of "employee."

Under the provisions of Government Code section 86300, other state agencies and their employees who attempt to influence legislation are exempt from the lobbyist registration, reporting, and prohibition provisions of the Act except that employees of these agencies are prohibited from making gifts of more than ten dollars in a calendar month to an elected state officer or legislative official. Government Code section 82039, which defines "lobbyist" for purposes of the Act, expressly excludes from the definition individuals who are exempted under Government Code section 86300. Accordingly, if the State Bar is deemed to come within the section 86300 exemption, its employees who attempt to influence legislation will not be lobbyists and the State Bar will not be an employer of lobbyists. Under these circumstances there would appear to be no basis for applying the lobbyist registration, reporting, and prohibition provisions to the State Bar.

Mr. Dan Stanford
7 February 1985
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Moreover, as a "state agency" within the meaning of the Act, the Conflict of Interest Code provisions of the Act (Govt. Code § 87300 et seq.) and the reporting requirements of these provisions will be applicable to the State Bar. This would appear to further obviate the necessity of applying the lobbyist provisions to the State Bar.

For all of the reasons mentioned I have concluded that the State Bar, like other state agencies, should be exempted from the lobbyist provisions of Chapter 6, Articles 1 and 2 of the Act when the amendment which makes the State Bar a "state agency" becomes operative. Please let me know if you are in agreement with this conclusion.

Thank you for your consideration of this matter. I look forward to hearing from you.

Very truly yours,

A handwritten signature in cursive script that reads "Herbert M. Rosenthal".

Herbert M. Rosenthal
General Counsel

HMR:sd

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Ms. Barbara A. Milman
General Counsel
FAIR POLITICAL PRACTICES COMMISSION
1100 -K- Street Building
Sacramento, California 95815

Dear Ms. Milman:

Thank you for your letter of February 14, 1985 stating that you concur with my conclusion that since the State Bar is now a "state agency" within the meaning of the Political Reform Act, and since the status of the State Bar's lobbyists has been changed from "independent contractor" to that of "employee", the State Bar and its employees are no longer covered by Chapter 6 of the Act. Accordingly, I have advised our lobbyists that neither they nor the State Bar have any registration or reporting obligations under the Act and that the lobbyists are not subject to the prohibition the Act places on lobbyists.

I appreciate your prompt response in this matter.

Very truly yours,

Herbert M. Rosenthal
General Counsel

HMR:sd
cc: Terry Flanigan
Stanley Wieg
Judith Harper